

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)
F-5489 CIP 2 CON
(0360-0166.04)

In re Application of: Mark R. Vandlik et al.

Application No.: 10/765,498

Filed: 01/26/2004

For: Blood Processing Systems and Methods That Employ An In-line Flexible Leukofilter

The owner*, Baxter International Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,709,412 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

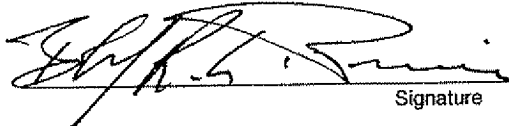
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 29,101


Signature

May 29, 2008
Date

Bradford R. L. Price

Typed or printed name

844-948-4483

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

PATENT
Attorney Docket No. F-5489 CIP 2 CON (0360-0166.04)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mark R. Vandlik et al.
Serial No.: 10/765,498
Filed: 01/26/2004
Examiner: Leslie R. Deak
Art Unit: 3761
For: Blood Processing Systems and Methods
That Employ An In-Line, Flexible Leukofilter

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF TERMINAL DISCLAIMER

Dear Sir:

As requested by the Examiner, Applicants transmit herewith a Terminal Disclaimer executed by an attorney of record in the above-identified application.

As this Disclaimer is intended to replace the previously filed disclaimer (which included payment of the Terminal disclaimer fee under 37 CFR 1.20(d)) which was objected to as not being signed by an attorney of record, it is believed that no additional fee is required for this Disclaimer. However, the Director is authorized to charge any

fees that may be required, or credit any overpayment, to Deposit Account number 50-1039.

Respectfully submitted,

Date: May 29, 2008

By: Gary W. McFarron

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